

Appl. No. : 10/732,992
Filed : December 11, 2003

REMARKS

This response is to the Final Office Action dated August 1, 2006 in the subject application. The response is made by the undersigned, new attorneys of record in this application and attorneys for ROCKY RESEARCH of Boulder City, Nevada, assignee of this application as well as the parent application, now U.S. Patent No. 6,758,988.

In the final rejection, the Examiner has repeated rejection of the claims under 35 U.S.C. § 103(a) as being obvious over Verma et al. (U.S. Patent No. 6,004,476) in view of Chandler et al. (U.S. Patent No. 5,577,388). The reasons for the rejection are stated to be the reasons set forth in the previous Office Action of March 30, 2006, in this application. The rejection is respectively traversed.

The rejection is improper under 35 U.S.C. § 103(a) since the primary reference of Verma et al., U.S. Patent No. 6,004,476 and the present application, were at the time the invention of U.S. Application Serial No. 09/656,545 and the present application was made, owned by FMC Corporation. Submitted herewith are copies of the U.S. Patent & Trademark Office Patent Assignment Abstract of Title for U.S. Patent 6,004,476 and U.S. Patent No. 6,758,988, the corresponding parent application to the present application. The Abstracts show that U.S. Patent No. 6,004,476 has been owned by FMC Corporation continuously from January 16, 1998, the date that the Verma et al. patent was assigned to FMC Corporation, to September 7, 1999, the date the provisional applications on which both U.S. Patent No. 6,758,988 and the present application rely and to September 6, 2000, the date that the parent application for U.S. Patent No. 6,758,988 and the present application was originally filed. The evidence shows that FMC Corporation owned U.S. Patent No. 6,004,476 on the day that the invention of U.S. Patent No. 6,758,988 and the present application was made. Accordingly, it is submitted that under the provisions of 35 U.S.C. § 103(c), U.S. Patent No. 6,004,476 (Verma et al.) is disqualified as prior art; *see* M.P.E.P. 706.02(I)(1) and 706.02(I)(2). Thus, the rejection of record based on the Verma et al. U.S. Patent No. 6,004,476 is improper.

Applicants wish to further traverse the basis for the rejection and rebut the Examiner's reasons for combining Verma et al. with Chandler et al. The Examiner states that Chandler et al. is relied on to cure the deficiencies of Verma et al. regarding the addition of alkaline metal hydroxides in percentages of about 20% to about 80% by weight, and that it would be obvious to

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combine the teachings of Chandler et al. with the teachings of Verma et al. since both are directed toward absorption solutions for refrigeration systems. The Examiner cites cases to support the position that it is *prima facie* obvious to combine two compositions, each taught for the same purpose, to yield a third composition for that same purpose. The Examiner's point is not well taken and the cited cases are not in point in this prosecution. Following the Examiner's own statement, if one were to combine the teachings of Verma et al. and Chandler et al., thereby combining the compositions of the two respective references to form a third composition, the resulting third refrigeration solution composition would necessarily comprise about 40% to about 65%, by weight, of an alkali metal halide (Verma et al., col. 5, lines 32-36), between about 30% and about 80%, by weight, of an alkali metal hydroxide (Chandler et al., col. 2, lines 1-3), at least two parts per million, by weight, of an amine having between four and twenty carbon atoms (Chandler et al., col. 3, lines 42-45) and at least one heteropolycomplex anion (Verma et al., col. 5, lines 25-30). Such a resulting third composition is not claimed in any of the claims recited in the present application. Accordingly, the combination of references fails teach or suggest any compositions claimed in the present application under 35 U.S.C. § 103(a).

Since the primary reference of record, Verma et al., U.S. Patent No. 6,004,476 is disqualified and is not available as prior art in the present application under the provisions of 35 U.S.C. § 103(c), the final rejection is improper and must be withdrawn. Accordingly, the claims in this application are allowable and notice thereof is respectfully requested.

Please charge any additional fees, including any fees for additional extension of time, or credit overpayment to Deposit Account No. 11-1410.

Respectfully submitted,

KNOBBE, MARTENS, OLSON & BEAR, LLP

Dated: _____

7/13/08

By: _____



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